



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street
Dallas, TX 75242

501.03-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: 201023062

Release Date: 6/11/10

LEGEND

ORG - Organization name

XX - Date Address = address

**ORG
ADDRESS**

Date: March 12, 2010

Person to Contact:

Badge Number:

Contact Telephone Number:

Contact Address:

Employer Identification Number:

Deadline to Petition Tax Court:

CERTIFIED MAIL

Dear

This is a final notice of adverse determination that your exempt status under section 501(c) (3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501(c)(3) is revoked effective January 1, 20XX the following reason(s):

You are not organized and operated exclusively for an exempt purpose as required by Internal Revenue Code section 501(c)(3). You are not and have not been engaged primarily in activities which accomplish one or more exempt purposes. You are not a charitable organization within the meaning of Treasury Regulation 1.501(c)(3)-1(d); rather, your activities further a substantial nonexempt commercial purpose and serve private rather than public interests.

Contributions to your organization are no longer deductible effective January 1, 20XX.

Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after January 1, 20XX.

Income tax returns for subsequent years are to be filed with the appropriate Service Center identified in the instructions for those returns.

It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, if you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia before the (ninety-first) 91st day after the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. To secure a petition form, write to the following address:

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

The last day for filing a petition for declaratory judgment is June 14, 20XX.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

This letter should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TEGE:EO Examination
4330 Watt Avenue SA 6209 EO
Sacramento, CA 95821

August 7, 2009

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough
Director, EO Examination

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

LEGEND

ORG = Organization name XX = Date Address = address City - city
State = State Attorney - attorney President = president

ISSUE

Whether the organization continues to qualify for exemption from income tax when its President has stated that they have stopped providing credit counseling services.

FACTS

ORG was incorporated in the State of State on May 30, 20XX.

On January 7, 20XX ORG was recognized by the Service as exempt under section 501(c)(3) of the Internal Revenue Code effective May 30, 20XX. Because it was a newly created organization, it was presumed to be a public supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code for an advance ruling period beginning May 30, 20XX and ending December 31, 20XX.

Its application for recognition of exemption, Form 1023, dated August 23, 20XX gave the organizations address as Address City, State. The application provided a schedule listing the activities of the organization. These were to:

- a. Provide individual Counseling.
- b. Provide credit and financial education.
- c. Assist the consumer with creditors on establishing a reasonable repayment plan.
- d. Provide debt consolidation programs..

On March 6, 20XX I spoke with the President of the organization by phone, he told me that the organization was currently not in business, we setup an initial appointment date for March 21, 20XX.

On March 21, 20XX I received a call from Attorney representing the organization, He stated that the organization was looking to dissolve and wanted to terminate their exempt status and give up their right to appeal. We agreed that the org could mail in the material requested on the IDR.

On June 20, 20XX Mailed organization the second IDR.

LAW

To be exempt under section 501(c)(3) of the Code, an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that; "In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or operational test, it is not exempt."

Section 1.501(c)(3)-1(c)(1) of the Regulations states; "An organization will be regarded as "operating exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(d)(ii) of the Regulations states in part: "Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interest such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interest."

Revenue Ruling 69-441, 1969-2 CB 115, holds that a nonprofit organization formed to help reduce personal bankruptcy by informing the public on personal money management and aiding low-income individuals and families with financial problems is exempt under section 501(c)(3) of the Code. The organization provides information to the public on budgeting, buying practices, and the sound use of consumer credit through the use of films, speakers, and publications. It aids low-income individuals and families who have financial problems by providing them with individual counseling and, if necessary, by establishing budget plans. The funds are kept in a trust account and disbursed on a partial payment basis to the creditors, whose approval of the establishment of the plan is obtained by the organization. These services are provided without charge to the debtor. The debtor receives full credit against his debts for amounts paid. The organization's receipts are from contributions, primarily from the creditors participating in the organization's budget plans. However, creditors are not required to make contributions as a condition of participation.

TAXPAYER'S POSITION

A copy of a draft revenue agents report, form 886-A, was sent by certified mail to the taxpayer on November 15, 20XX to solicit their response to the proposed revocation. The draft report was signed for by the President, on November 17, 20XX. On November 21, 20XX the agent called the President at her home and at her office and left messages for her to call -- the calls were not returned. A form 6018 was signed by President on December 7, 20XX and was

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

received by the Service on December 9, 20XX. No other correspondence was received with the form 6018.

GOVERNMENTS POSITION

Based on the president's statements regarding the organizations operations, the organization ceased conducting the activities which were the basis for their exemption sometime during year ending December 31, 19XX. Therefore, they have not qualified for exemption since the day they ceased performing such exempt activities.

CONCLUSION

Based on the foregoing, the organization ceased operating as an exempt credit counseling organization during 19XX, therefore, it no longer qualifies as an organization exempt under section 501(c)(3) of the Code and its tax exempt status should be revoked effective January 1, 20XX.

If you agree with revocation of your exempt status under IRC section 501(c)(3), please sign and return the enclosed form 6018, Consent to Proposed Action – Section 7428. If you disagree, please respond in accordance with the “filing a formal protest” requirements as described in page 6 of publication 3498, *The Examination Process*.

If the proposed revocation of your exempt status becomes final, the appropriate State official will be notified in accordance with Internal Revenue Code section 6104(c). In addition, you will be required to file form 1120, U. S. Corporate Income Tax Returns for all subsequent tax periods. As a private foundation you will continue to be subject to the provisions of Chapter 42 of the Code, unless you terminate your foundation status under section 507 of the Code.

Attached:

Exhibit 1, record of interviews and attempts to contact.